

*Original*

Ignition  Ventures

Tuesday, December 11, 2002

Dear Arthur,

Based on our previous conversation, we have assembled a proposal to describe our process: the objectives, methodology, staffing, and costs. We are excited to help you build Toev, bringing your new stroke treatment to market. We propose to work as the majority of your business function until you can hire full-time staff. We propose to work with you very closely, bringing our findings and recommendations to you, then setting up a series of standing meetings, probably weekly or bi-weekly, to review progress made and discuss key decisions.

The detail of each phase and the work to be performed is listed below:

Phase One: Assessment of Company Potential

The purpose of this stage is to:

- Become more familiar with the technology and the company potential overall
- Review the competitors' technologies and general company health
- Develop initial hypotheses about the market size and potential payoff
- Develop initial hypotheses about pay-off risks
- Create early financial model
- Assist with securing all intellectual capital rights required

In this phase, we will perform various roles typically found in a developing company:

- **Technical Due Diligence** (similar to that Venture Capitalists will complete):
  - Complete a technical review of competitive technologies and competitive activity already in the marketplace
  - Identify and review other substitutable technologies in the market
  - Review the materials the company has prepared, including scientific and other information
  - Identify the obvious technological hurdles, including key development milestones and their achievability
- **VP of Business Development** - Make preliminary estimates of market size
  - Understand how many customers may exist
  - Determine who could be made into a customer at what price range

# Ignition $\Phi$ Ventures

82 Charles Street, 2<sup>nd</sup> Floor  
Boston, MA 02114

December 18, 2002

Toev Medical  
393 Gloucester Street  
Englewood, NJ 07631

Gentlemen:

This agreement sets forth our understanding about the consulting services to be provided by Ignition Ventures, Inc., a Delaware corporation ("Ignition"), to TOEV Medical Corporation ("Client"). Ignition and Client hereby agree as follows:

1. Consulting Services. Ignition agrees to perform the following consulting services for Client (the "Services"):

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- **VP of Business Development** - Make preliminary estimates of market size
  - Understand how many customers may exist
  - Determine who could be made into a customer at what price range
  - Refine the revenue ranges and dependencies
- **CFO**
  - Build / refine the Profit and Loss statement built on agreed upon rationale
- **Internal legal advisor (not lawyer)**
  - Assess technical defensibility / patent protection

After these activities, we will formulate a preliminary opinion about the likelihood of success. We expect to have a concrete set of technical issues and some business issues at the end of this stage. We will also have a good list of competitive concerns. We will look to you for a preliminary list of competitive companies, related researchers and substitutable technologies that are known, and we will complete deeper research to assess the competitiveness. A preliminary estimate is that it will require 6-7 weeks time, working 4-5 person days a week. The duration is dependent on how quickly we can schedule experts' time, amount of time you have for collaboration, ease of finding competitors information, etc.

#### **Phase Two: We Charge Forward in Starting the Company**

In this stage, we would collectively start to layout the roadmap, timing, corporate structure and financial future for the company. We would also begin preliminary discussion with potential customers to test their receptivity to the technology, determine the best go-to-market model for the company, and start recruiting employees when it becomes financially feasible. In short, we will get the company up and running.

The roles we will provide include:

- **VP of Business Development**
  - Create a customer sales presentation
  - Talk to potential customer
  - Make preliminary estimates of market size
  - Determine possible pricing models
  - Begin an iterative process to determine sales models / marketing structures
- **CFO**
  - Continue to refine Profit and Loss statement, with updated costs of revenue and costs including sales/marketing costs, development costs, personnel, etc
- **Internal legal advisor (not lawyer)**
  - Create structure of legal entity to ensure optimal value. We will work with you to find the optimal legal counsel, and provide inputs to your decisions
- **CEO**
  - Create a presentation for Venture Capitalists
  - Key milestones and timing concerns to achieve milestones, working collaboratively with you to set realistic dates that are desirable
  - Help you decide what key resources and personnel are needed
  - Create strategy for choosing and working with Venture Capitalists
  - Start meeting with Venture Capitalists

#### **Timing and personnel**

We expect Phase 1 will take approximately 6-7 weeks of part-time work, the equivalent of four – five person days per week. For Phase 2, we expect the work to be completed over in 8-12 weeks, again at a four - five person days per week. In addition to Amy Salzhauser and Maureen Stancik Boyce, we are likely to have one or two other consultants working on various parts of the project. It may be possible to accelerate these time estimates if that would be preferred. We expect that we would be ready to seek Venture Capitalist funding after 3 and a half months. The exact timing of funding is of course, highly variable.

## 2. Compensation.

As discussed, the payment will be from a combination of cash and equity. More specifically, we would like to propose a combination of:

- (a) a nominal monthly fee pre-funding: \$1500/ month
- (b) equity per month worked: 7% of the company for the three and a half month of preparation / research worked at 4-5 person days per month. Client agrees to [issue / cause to be issued] to Ignition on or prior to April 5, 2003 common stock or other similar equity interests in Toev, it being understood that the securities so issued to Ignition will represent approximately 7% of the fully diluted common equity of Toev. While the exact terms of Toev's securities issue to Ignition will be determined at the time of issuance, these securities will have minority owner rights satisfactory to Ignition, including anti-dilution protection and registration rights.
- (c) a cash payment upon funding: \$30,000 upon securing adequate first round funding, defined as the lesser of \$750,000 or an amount to be co-determined by Toev and Ignition at a later date
- (d) a contract to work for a limited number of months post funding: a contract for at least two months of part-time work post funding for close to market rates

In addition, we recognize that time to funding from Venture Capitalists is variable. We recommend that we work with you through the full process, and keep track of specific hours worked after the initial 3.5 months. Any work beyond this initial 3.5 months will be compensated at a pro-rated rate of \$1500 per 18 person days and 2% of equity per 18 person days. Person days are 9-hour workdays.

Client agrees to pay Ignition within 30 days after each bill.

Client agrees to fully reimburse, at Client's cost, all reasonable out-of-pocket expenses incurred by Ignition in its performance of the services, provided that Client approves the travel expenses. Ignition must submit receipts for all reimbursable expenses to Client. Client will reimburse these out-of-pocket expenses within thirty days of closing first-round financing.

3. Information and Confidentiality. Client agrees to cooperate with Ignition and to provide Ignition with such information, as Ignition requires to perform the Services. During the term of this agreement, Ignition will have access to proprietary information of Client, including, but not limited to, customer lists, trade secrets, records, data and other non-public business and financial information relating to Client (the "Confidential Information"). The Confidential Information may be used by Ignition solely in the course of Ignition's performance of the Services and may not, without the prior written consent of Client, be used, disseminated or disclosed by Ignition for any other purpose, unless and until the Confidential Information becomes generally publicly available by any means other than an unauthorized disclosure by Ignition.

4. Limitation of Liability. Ignition's liability for any damages resulting from the work performed by Ignition for Client under this agreement will be limited to the amount paid to Ignition by Client for the Services.

5. Nature of Relationship. The parties agree that this agreement does not create an exclusive relationship and that Ignition is free to perform consulting services for third parties during the term of this agreement. The parties further agree that, in performing the Services, Ignition will be acting solely as an independent contractor. Accordingly, no representative of Ignition will be an employee of Client or have any rights under any medical or other benefit plans or arrangements provided to employees of Client. No provision of this agreement places the parties in the relationship of partners or joint venturers or gives either party the power to bind the other.

6. Termination. Either party may terminate this agreement upon written notice to the other party in the event of a material breach of this agreement by the other party. Either party on 45 days' prior written notice to the other may terminate this agreement. In the event of termination, Ignition will be compensated for Services rendered and reimbursable expenses incurred through the date of termination.

7. Counterparts. This agreement may be executed in counterparts, each of which shall be an original but all of which will constitute one and the same agreement.

8. Amendments. Only an instrument in writing signed by both Client and Ignition may amend this agreement.

9. Governing Law. This agreement will be governed by and construed in accordance with the internal substantive laws of the State of Massachusetts.

10. Notices. Any notice required or permitted to be given by either party must be in writing and delivered to the parties' addresses set forth on page 1 of this agreement or to such other address as either party may designate by written notice to the other.

11. Board of Directors. Toev will offer Ignition Ventures a seat on Toev's Board of Directors.

If the terms of this agreement are acceptable to you, please sign and return the enclosed counterpart to the undersigned.

Very truly yours,

IGNITION VENTURES, INC.

By:

Name:

Title:

Accepted and agreed to as of  
the date first above written:

Toev Medical

By:

Name:

Title:

Arthur E. Schwartz

CEO, Toev Medical Corporation 12/18/02